

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**CrIM No. 525/2023 in
CrIA (D) No. 20/2023
CrIM No. 526/2023**

UT of Jammu & Kashmir through SHO P/S Magam

... Appellant(s)

Through: -

Ms Maha Majeed, Assisting Counsel vice
Mr Mohsin-ul-Showkat Qadri, Sr. AAG.

V/s

Nazir Ahmad Bhat

... Respondent(s)

Through: -

Mr Wajid Mohammad Haseeb, Advocate with
Ms Sheeba Khan, Advocate.

CORAM:

Hon'ble Mr Justice Rajnesh Oswal, Judge

Hon'ble Mr Justice Mohammad Yousuf Wani, Judge

(ORDER)

03.04.2024

CrIM No. 525/2023:

01. Through the medium of the present application, the Applicant/Appellant-Union Territory of Jammu & Kashmir is seeking condonation of delay of 119 days in filing the appeal against the Order dated 20th of December, 2022 passed by the Court of learned Special Judge Designated under NIA Act, Srinagar (hereinafter referred to as 'the trial Court') in case titled '**Nazir Ahmad Bhat v. UT through SHO P/S Magam**', whereby the Petitioner therein/ Respondent herein has been enlarged on bail in connection with case bearing FIR No. 146/2022 registered in Police Station, Magam for the commission of an offence punishable under Section 13 of the Unlawful Activities (Prevention) Act [(for short the UA (P) Act)].

02. For the reasons stated in the application, coupled with submissions made at the Bar, the instant application is **allowed** and the delay of 119 days in filing the appeal is condoned.

03. CrIM No. 525/2023 is, accordingly, **disposed** of.

CrIA (D) No. 20/2023; CrIM No. 526/2023:

04. This appeal is directed against the Order dated 20th of December, 2022 passed by the learned trial Court in case titled '**Nazir Ahmad Bhat v. UT through SHO P/S Magam**', whereby the Petitioner therein/ Respondent herein has been enlarged on bail in connection with case bearing FIR No. 146/2022 registered in Police Station, Magam for the commission of an offence punishable under Section 13 of the UA (P) Act

05. The present appeal has been filed, primarily, on the ground that Section 43 (D) of the UA (P) Act was applicable in the case, but the learned trial Court has not considered the same.

06. We had asked Ms Maha Majeed, learned Counsel appearing vice Mr Mohsin-ul-Showkat Qadri, learned Senior Additional Advocate General, on behalf of the Appellant-UT, to confirm whether the charge sheet in the case has been filed and if the same has been filed, then inform the Court in respect of the offence(s) incorporated therein as well. Ms Maha Majeed, on instructions, submits that the charge sheet stands filed before the trial Court on 14th of December, 2022 for the commission of an offence punishable under Section 13 UA (P) Act only.

07. In view of above and having regard to the fact that the rigor of Section 43 (D) of the UA (P) Act is not applicable in the instant case, therefore, we do not find any reason to show interference in the well-reasoned Order passed by the learned trial Court. Accordingly, the appeal, being misconceived, is **dismissed** along with the connected CrIM. Interim direction(s), if any subsisting as on date, shall stand vacated.

(Mohammad Yousuf Wani)
Judge

(Rajnesh Oswal)
Judge

SRINAGAR
April 3rd, 2024
"TAHIR"